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**NLRB ESTABLISHES PERMANENT ADR PROGRAM
FOR SETTling UNFAIR LABOR PRACTICE CASES**

Based on the success of the National Labor Relations Board's pilot alternative dispute resolution (ADR) program, the Board has decided to make the program permanent. The pilot program, which assisted the parties in settling unfair labor practice cases pending before the Board, began in December 2005. During its operation, 44 cases were processed in the program. NLRB-assigned neutrals assisted the parties in reaching settlements in approximately 60% of the cases. The Board approved the parties' settlements in each of those cases.

Participation in the Board's ADR program is voluntary, and a party who enters into settlement discussions under the program may withdraw its participation at any time. The Board will provide the parties with an experienced neutral, usually an NLRB administrative law judge, to facilitate confidential settlement discussions to explore resolution options that serve the parties' interests. Depending on the parties' preference, the settlement conferences will be held in person, telephonically, or by videoconference.

The Board established the ADR program in response to the success experienced by other federal agencies and the federal courts in settling contested cases through ADR, as well as the success of the NLRB's own settlement judge program at the trial level. In announcing the Board's decision to make the program permanent, Chairman Wilma B. Liebman stated:

ADR programs provide the parties with several benefits, including savings in time and money, greater control over the outcome of their cases, and more creative, flexible, and customized resolutions of their disputes. Settlement discussions conducted with the assistance of an ADR neutral may broaden resolution options, often by going beyond the legal issues in controversy, and may be particularly useful where traditional settlement negotiations are likely to be unsuccessful or have already been unsuccessful. Our experience with the pilot ADR program demonstrates that participation in the program provides the parties with a process for expeditiously resolving their disputes, which serves to effectuate the purposes of the Act.

Other features of the Board's ADR program include:

- The parties may request assignment of an Agency administrative law judge to serve as the neutral. The program director, however, is also available to serve in that capacity. The judge who heard the underlying case will not be appointed.
- The Board will stay further processing of the unfair labor practice case for 30 days from the first meeting with the neutral or until the parties reach a settlement, whichever occurs first. Requests for extension of the stay beyond the 30 days will be granted only with the approval of and in the sole discretion of the neutral and the program director upon a showing that such an extension is supported by good cause. However, no case may be in the program for more than 60 days.
- The preferred method of conducting settlement conferences is to have the parties or their representatives attend in person, and therefore the neutral will make every reasonable effort to meet with the participants face-to-face at the parties' location. Settlement conferences by telephone or through videoconference may be held if the parties so desire.
- Parties may be represented by counsel at the conferences, but representation by counsel is not required. Each party must have in attendance, however, a representative who has the authority to bind the party to the terms of a settlement agreement.
- The parties may be asked to submit to the neutral a confidential pre-conference memo setting forth what is in dispute between the parties, prior settlement efforts, and anything else that the parties would like to bring to the neutral's attention. The memo will be treated as a confidential submission unless the party that prepared the memo authorizes release to the other parties.
- The neutral has no authority to impose a settlement.
- Discussions between the neutral and the participants will be confidential, and there will be no communication between the program and the Board on specific cases submitted to the ADR program, except for procedural information such as case name, number, and status.
- Nothing in the ADR program is intended to discourage or interfere with settlement negotiations that the parties wish to conduct outside the program.
- Deadlines for filing pleadings with the Board will be stayed effective the date that the case enters the ADR program. In the event the case is removed from the program, the time period for filing will begin running again from where it left off.
- Settlements reached are subject to approval in accordance with the Board's existing procedures for approving settlements.
- No party will be charged fees or expenses for using the program.

Questions regarding the program may be addressed to the program director, Gary Shinnners, who may be contacted by telephone at (202) 273-3737, or by email at gary.shinnners@NLRB.gov.